

Minutes of March 7, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, March 7, 1994 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 7:00 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Wheatley, Mrs. Hudson, Mr. Mills, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of February 28, 1994 be approved as circulated.

Case No. 5297--Ann Kefauver - East side of Route 489, 643 feet south of Route 480.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Ann Kefauver was sworn in and testified, requesting to place a 1994, 14'x 70' manufactured home on her property for her residence. She stated that there is a manufactured home located on either side of her property plus others are located in the area.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the special use exception be granted.

Case No. 5298--Andrew Razz - West side of Route 594,  $\frac{1}{2}$  mile south of Route 16.

A special use exception to place a manufactured home on a medical hardship basis.

There were no parties present in behalf of this application. The Chairman tabled the case until the end of the public hearings.

At the end of public hearings, the Chairman referred back to this case. There were no parties present to represent the application. The Chairman opened the hearing since there were interested parties present.

The case was presented by Mr. Betts. The applicant proposed to place a manufactured home on medical hardship basis.

Dorothy Underwood and Jay A. Reibsome were sworn in and questioned the intent of the applicant. They stated that they were confused with what was requested. Ms. Underwood stated the deed has restrictions pertaining to manufactured homes.

Mr. Jones, Attorney, explained to Ms. Underwood and Mr. Reibsome what the request for a hardship situation entailed.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, due to lack of representation.

Case No. 5299--Gene & Kelly Racz - West side of Route One, 1/4 mile north of Route 9.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Suzanne Racz, Captain Kelly Racz and Gene Racz were sworn in and testified, requesting a 42 sq. ft. variance from the maximum size of 150 sq. ft. to be 92 sq. ft. for a second on-premise sign. The applicants relocated their business to a new location and the business (Sports Center) is hard to see because of other structures. They need the sign to make people aware that the business is there. A picture was presented. This will make the second on premise sign.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the variance be granted.

Case No. 5300--Donald L., Jr. & Sherrie P. Betts - South side of West Yorktown Road, Lot F-17, within Shawnee Acres.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Donald Betts, Jr. was sworn in and testified, requesting a 9' variance from the 30' front yard setback requirement for a house on Lot F-17, Shawnee Acres. The applicant testified that the house was constructed five years ago and is on a cul-de-sac. The house is now up for sale and a survey was done. The encroachment was discovered at this time.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the variance be granted.

Case No. 5301--Great South Beach Improvement Co. - West side of East Side Drive, 121 feet south of Route 273, Lot 11, within Rehoboth Beach Yacht and Country Club.

A special use exception to place a manufactured home to be used for business purposes.

Mr. Betts stated that a letter had been received at 1:22 P.M. on Friday, March 4, 1994 from Great South Beach Improvement Co., requesting to withdraw their application. No reason was given. Mr. Betts read the letter into the record.

Mr. Jones, Attorney, referenced the Zoning Code pertaining to withdrawing an application.

Joseph J. Crowley was sworn in as an interested party, stating he owns two lots near the site on the application.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be denied, finding there was lack of representation and lack of a reason for withdrawing the application.

Case No. 5302--Decoy, Inc. East side of Bunting Avenue, 50 feet south of Delaware Avenue, Lot 3, within the unincorporated section of Fenwick Island.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Gary Emerson Willey was sworn in and testified, representing Decoy, Inc., who requested a 5' variance from the 10' side yard setback requirement on Lot 3, within the unincorporated section of Fenwick Island on Delaware Avenue, for a second floor deck. The variance is needed to be able to provide space on the deck to place a table and chairs. Without the variance there will not be enough room.

Letters were read into the record by Mr. Betts, from Dr. Vincent Lobo voicing no opposition and from Tanios Tannouse who is in opposition.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Callaway, seconded by Mr. Mills that the variance be granted, with Mr. McCabe not voting. Motion carried with four voting in favor and one not voting, finding the use will not adversely affect neighboring property.

#### OLD BUSINESS

Case No. 5282 (cont'd.)--R. A. Raley - North side of Route 9,  $\frac{1}{2}$  mile west of Route One.

A special use exception to place off premise signs.

The case was reviewed by Mr. Betts.

Mr. Wheatley, who was absent for the public hearing for this case, Case No. 5284 and Case No. 5285, stated that he had visited the

sites and on March 2, 1994 listened to the tapes of the meeting and reviewed the evidence on all cases.

After some discussion, motion was made by Mr. Callaway that the special use exception be granted.

Due to lack of a second the motion died.

Motion was made by Mr. Mills, seconded by Mrs. Hudson that the special use exception be granted with the limit of only one (1) sign, with a limit of four (4) support poles in line.

Roll call with reasons was taken:

Mr. Mills-voting yea; with the limit of one sign, no more than four (4) support poles in line. He feels nine (9) signs will adversely affect neighboring properties, traffic coming into the area and clutter, and look less than desirable. He is familiar with the site, no other types of off-permise signs in the immediate area. Feels more than one sign will substantially affect adversely the adjacent and neighboring property and believes one sign will not substantially affect adversely the adjacent neighboring properties.

Mrs. Hudson-voting yea; voicing same reasons as Mr. Mills. She feels to have more than one sign will adversely affect the neighborhood.

Mr. Wheatley-voting yea; agreed with Mr. Mills. He feels it will be an asset to the applicants business to have one sign.

Mr. Callaway-voting nay; in favor of granting nine signs as requested.

Mr. McCabe-voting yea; feels the same as the others who favor one sign. He feels one sign will not take away from the area, but nine signs would and nine signs would also have a negative impact on the area.

Motion was carried that the special use exception be granted for one (1) sign, with the limit of four (4) support poles in line. Vote 4 to 1.

Case No. 5284 (cont'd.)--R. A. Raley - At the intersection of Route 9 and Route 269.

A special use exception to place off premise signs and a variance from the requirements for signs.

The case was reviewed by Mr. Betts.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson that the special use exception and variance be granted, finding the use will not adversely affect the houses in question, due to approximately four other signs in the area that relate to business, with Mr. Wheatley, Mr. McCabe and Mr. Mills voting nay.

Roll Call with reasons was taken:

Mr. Callaway-voting yea; feels the use will not adversely affect the houses in question due to approximately four signs in the area that relate to business.

Mrs. Hudson-voting yea; feels the use would not be seen, because it is located, where the people in opposition complained, would not see it. She feels it will not adversely affect them, because they would have to be traveling to the location to see the sign.

Mr. Mills-voting nay; feels the use would adversely affect the residential properties in the area, with four other billboards in the area it would cause clutter. He feels the applicant has not met the requirements under the Sussex County Code of Law for the granting of a variance.

Mr. Wheatley-voting nay; feels there are so many signs at the location now, it would adversely affect the area.

Mr. McCabe-voting nay; for the same reasons as stated in opposition. He feels four signs is enough in the small area.

Motion was carried that the special use exception and variance be denied. Vote 3 to 2.

Case No. 5285 (cont'd.)--R. A. Raley - West side of Route 24, at the intersection of Route 301.

A special use exception to place off premise signs and a variance from the requirements for signs.

The case was reviewed by Mr. Betts.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson that the special use exception and variance be granted, finding the sign is needed to guide people to the campground, with Mr. Mills voting nay. Motion carried with four voting in favor and one voting against. Vote 4 to 1.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the meeting be adjourned.

Meeting adjourned at 7:45 P. M.